

National Marine Fisheries Service
Alaska Enforcement Division

ENFORCEMENT REPORT



January 01 – December 31, 2003

National Marine Fisheries Service
Office for Law Enforcement
P.O. Box 21767
Juneau, AK 99802-1767

This report can be viewed at:

<http://www.nmfs.noaa.gov/ole/Alaska/>



**To report fisheries violations,
call our National Hotline at
1-800-853-1964**



INTRODUCTION:

The Alaska Enforcement Division (AED) opened 1,102 cases last year. In 2003, AED had fifteen Special Agents and eight Enforcement Officers working cases.

There were four Enforcement Officer and one Special Agent vacancies. This past month, I lost both Deputy Special Agents in Charge (DSAC); one to retirement and one resigned to follow her husband's job in Denver. John Kingeter was selected as one DSAC and the other DSAC will be recruited in the near future.

VESSEL MONITORING SYSTEMS (VMS)

We have installed Thrane & Thrane 3026 VMS transceivers on four AED patrol vessels. The units were installed primarily for safety purposes but they are also used as a communications platform to send and receive email messages. Our plans are to have VMS on all seven AED patrol vessels by mid-summer. Guy Holt, our VMS and IT Team Leader, will give a more detailed report on VMS at this time.

HIGHLIGHTS OF PRIORITY ISSUES:

An Alaska Region Enforcement Priorities Meeting was held on March 23, 2004. NOAA General Counsel led the meeting attended by Dr. Balsiger and some of his staff, as well as the Coast Guard. In 2003, we did not consider subsistence halibut regulations as a priority since they became effective last May. Enforcement was prepared to respond to complaints, however. As you will see further down in this report, complaints were numerous. As a result, subsistence halibut regulations were placed on the priority list.

1. OBSERVER-RELATED OFFENSES

While there was a ninety percent increase in the total number of affidavits written by observers in 2003 (481) compared to 2002 (253), overall compliance has improved. This increase in numbers can be attributed to better reporting as a result of an enhanced awareness of what safety issues require an affidavit and additional training provided to observers and Observer Program Office (OPO) staff regarding the importance of reporting violations for single isolated incidents. This training was initiated in 2002 and continued through 2003. Observers wrote 228 more affidavits in 2003. Sixty-five percent were safety related while forty-five percent involved notification, miscellaneous, IR/IU, and prohibited species mishandling. There has been a noticeable decrease in the number of affidavits involving egregious violations and blatant disregard for the regulations.

Cases were opened for all affidavits that were not forwarded directly to the USCG from AED or the OPO. In situations where there were multiple affidavits against the same vessel and operator, a single case was opened and any additional affidavits received at a later date were merged into the existing case while it remained open. A total of 211 fishery related cases were generated by observers in 2003. This is an increase of 56 cases or thirty-eight percent compared to 2002.

The following table shows the number and total percent of affidavits received in 2003 and 2002 grouped by violation category. While the number of affidavits increased, the percentage of affidavits per violation category decreased in many areas.

Violation Category	2003	Percent	2002	Percent
Contractor problems	9	2.00	0	0.00
Failure to notify	45	9.00	25	10.00
Harassment (sexual)	1	0.60	3	1.00
Harassment (assault)	1	0.60	1	0.75
Harassment (intimidate/interfere)	3	0.50	8	3.00
Harassment (other)	20	4.00	17	7.00
Inadequate accommodations	12	2.00	13	5.00
IR/IU	30	6.00	10	4.00
Marine mammal (other)	1	0.60	2	1.00
Marine Mammal (feeding)	1	0.60	6	2.50
MARPOL / oil spill	40	8.00	24	9.00
Miscellaneous	38	8.00	17	7.00
MSCDQ	20	4.00	15	6.00
Prohibited species (mishandling)	45	9.00	31	12.00
Prohibited species (retaining)	5	1.00	6	2.50
Record keeping and reporting	9	2.00	10	4.00
Restricted access	2	0.50	5	2.00
Safety issues	112	23.00	15	6.00
Safety (NMFS)	3	0.50		
Safety (USCG – equipment)	4	1.00		
Safety (USCG - fail to conduct drills)	26	5.00		
Safety (USCG - marine casualty)	25	5.00	30	11.00
Sample Bias (other)	7		9	3.50
Sample Bias (physical)	13			
Sample Bias (groundfish)	3	5.00		
Sample Bias (seabirds)	1	0.60	4	1.50
Seabird (lack of avoidance)	1	0.60	1	0.75
Seabird (other)	3	0.50		
Seabird (harassment)	1	0.40	1	0.50
TOTAL	481	100.00	253	100.00

Note - In September 2003 the Violation Category Titles were changed in the OPO's NORPAC database providing more precise violation category information to better reflect the nature of violations reported by observers. Some side-by-side comparisons were affected as a result of this change.

2. COOK INLET BELUGAS

We continued our enforcement efforts to protect beluga whales in Cook Inlet last year. The following is a summary of those efforts:

3. STELLER SEA LION PROTECTION MEASURES

Six incidents of stranded/dead sea lions were documented in various locations from Ketchikan to Sitka. Investigations on five of the incidents were dismissed for lack of evidence. A Special Agent conducting an investigation of the sixth incident, which occurred in Wrangell Narrows, near Petersburg, discovered numerous .30 caliber bullets lodged in the head and neck area of the sea lion. The bullets were removed and sent to the State of Alaska crime lab for analysis. This investigation is ongoing.

4. SEABIRD AVOIDANCE

Inspection of sea bird avoidance gear is now a standard part of every at-sea and dockside boarding.

One investigation was opened alleging non-compliance with sea bird avoidance regulations. The investigation was closed as unfounded.

5. RECORD KEEPING AND REPORTING

One IFQ Audit was conducted in Hoonah Cold Storage in Hoonah, Alaska. The processor was found to have failed to submit IFQ sablefish shipment reports on several occasions. The processor paid a summary settlement of \$6,250.

The fishing vessels WESTLING, KETA and ALPINE COVE were investigated for directed fishing for BSAI Pacific cod without possessing the required endorsement. The operator of the KETA was assessed a penalty of \$22,000 for the violation. The others are pending.

AED personnel continued a program of conducting offload audits in Dutch Harbor of the C/P fleet. The ALASKAN LEADER, REBECCA IRENE and DEEP PACIFIC were cited for underlogging violations.

An investigation continues for significant “crab cap” violations against two corporations operating in the Bering Sea.

Investigations continue on two Yakutat shoreside processors for failing to comply with virtually all of the R&R requirements, i.e., fail to maintain DCPL’s, fail to submit check-in/check-out reports, fail to submit WPR’s.

6. SUBSISTENCE HALIBUT

Eight investigations were opened on individuals for violating the new subsistence halibut regulations. Violations included taking subsistence halibut on a charter vessel, submitting fraudulent information on a subsistence halibut permit application, taking subsistence halibut in a non-rural area, and taking subsistence halibut with unlawful gear (too many hooks, improper buoy markings).

There were four reports of individuals taking subsistence halibut for commercial purposes. One of these reports has led to an investigation of four individuals from one of the larger subsistence communities in SE Alaska. Information and evidence uncovered in this investigation led to the serving of a search warrant on a fish wholesaler in Seattle, WA. Preliminary evidence gathered during the course of that search indicates that the four individuals may have unlawfully sold up to 12,000 pounds of fish in interstate commerce. Investigation ongoing.

7. IFQ SPECIFIC

A Notice Of Violation and Assessment (NOVA) for \$10,000, and forfeiture of 6,000 pounds of 2C halibut IFQ’s was issued to a Sitka resident for submitting false IFQ landing reports and for fraudulently applying for and receiving halibut IFQ’s. The individual has requested an administrative hearing to reduce the penalty amount.

In a joint effort with the International Pacific Halibut Commission, AED officers conducted an enforcement effort targeting vessel operators who chronically failed to comply with Area 4 vessel clearance procedures. Fifteen vessel operators were investigated and/or cited for failure to conduct required area clearances.

The operator of the MAR DEL SUD was assessed a penalty of \$80,000 for fishing in Area 3B and landing the fish as harvested in 3A. Fraudulent logbooks were prepared in an attempt to conceal the violation.

8. MARITIME BOUNDARY FOREIGN FISHING VESSEL SEIZURES

There is nothing to report for MBL issues. However, on other international issues we have been working closely with the U.S. Customs, Coast Guard and enforcement representatives of Canada and Russia concerning illegal crab entering the United States. This is a result of the VLADA case where illegal crab was brought into Canada and then trucked into Washington State. There are plans to visit China in May to share with them how we train our enforcement personnel and how we prioritize our work. There is also a meeting of the NPAFC's Enforcement Committee in Japan the following week.

International cooperation with enforcement agencies in other countries is continuing to increase. We feel that meeting and sharing with other country's enforcement agencies provides us with important information about the international movement of fish that may be illegally competing with legal enterprises.

9. MARINE MAMMALS and ENDANGERED SPECIES

A report was received of a dead sperm whale washed ashore near Port Protection. USCG Air Station Sitka provided transportation for a NOAA Special Agent and a member of the SE Marine Mammal Stranding network to attempt to determine the cause of death. Due to high surf and unsafe landing conditions, the team was unable to reach the carcass. The cause of death has yet to be determined. In addition, NOAA Officers found an employee from another federal agency with 12 teeth that he had unlawfully taken from this sperm whale carcass. The federal employee voluntarily abandoned the teeth to be used for educational purposes.

A report was received of a cruise ship striking a whale off the southern tip of Baranof Island. Special Agents interviewed the captain and crew of the cruise ship and employees of a shipyard in Vancouver, BC. The investigation was closed due to lack of evidence.

An investigation was forwarded to General Counsel alleging that a tour boat approached a group of humpback whales closer than 100 yards near Pt. Adolphus. GC is considering the case.

COMMUNITY-ORIENTED POLICING AND PROBLEM SOLVING (COPPS)

COPPS efforts continue with Protected Resources and the community of Yakutat to determine the cause of the decline of harbor seals in Disenchantment Bay. It is unknown what factor(s) may be causing the decline. Several possible explanations are vessel traffic disturbing the seals, hunting, environmental factors and cyclic population trends.

We continue to work with the Sitka Tribe of Alaska to accurately monitor, and reduce the instances of wasteful harbor seal harvests and to further the goals of the harbor seal co-management plan in the Sitka Sound area.

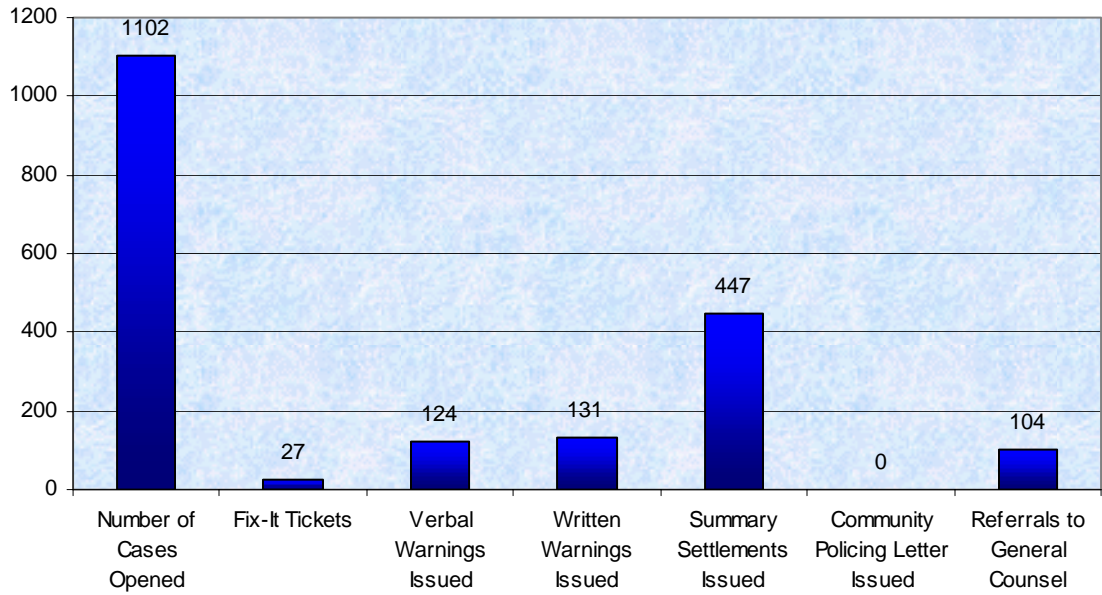
AED staffed a booth at Sitka WhaleFest. Approximately 520 people were contacted regarding IFQ fishing, subsistence halibut fishing and marine mammal issues.

Special Agents in SE Alaska put on programs in schools to explain the importance of preserving living marine resources.

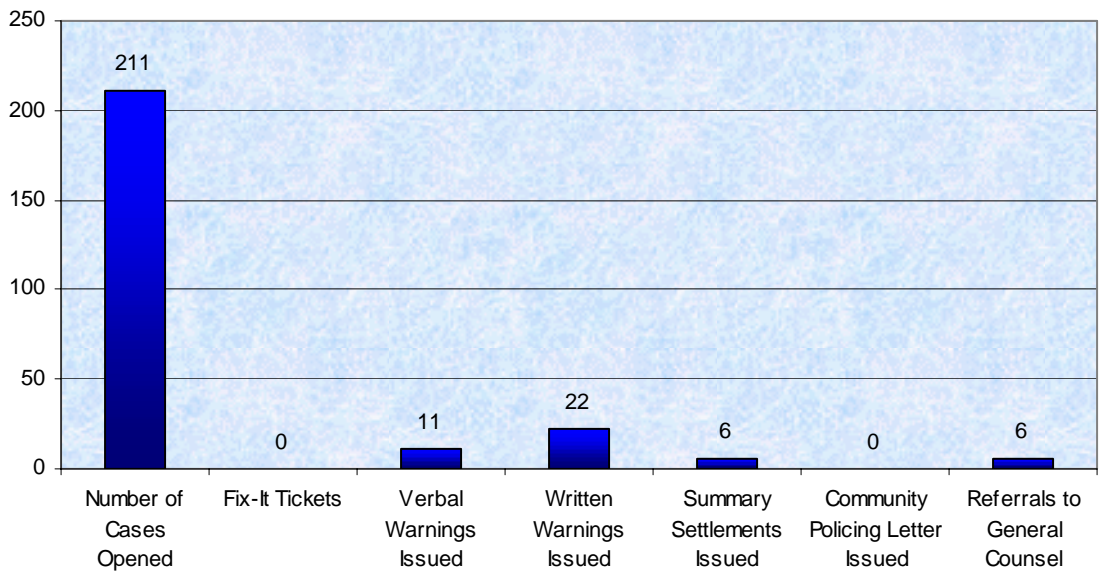
AED staff attended pre-CDQ season meetings with Norton Sound Economic Development Corporation and Bristol Bay Economic Development Corporation fishermen, buyers and managers to discuss requirements of the CDQ Halibut Program.

Last year, the Kodiak enforcement staff addressed the annual meeting of Alaska Dragger Association, and addressed applicable fishing regulations and changes for 2004.

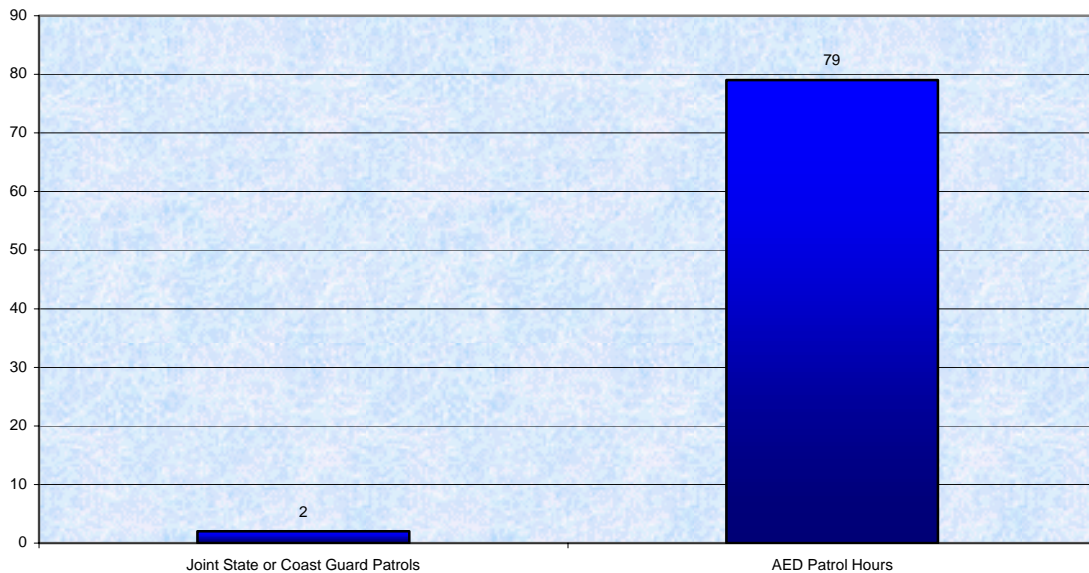
**Alaska Region Case Actions for All Cases
January 01, 2003 - December 31, 2003**



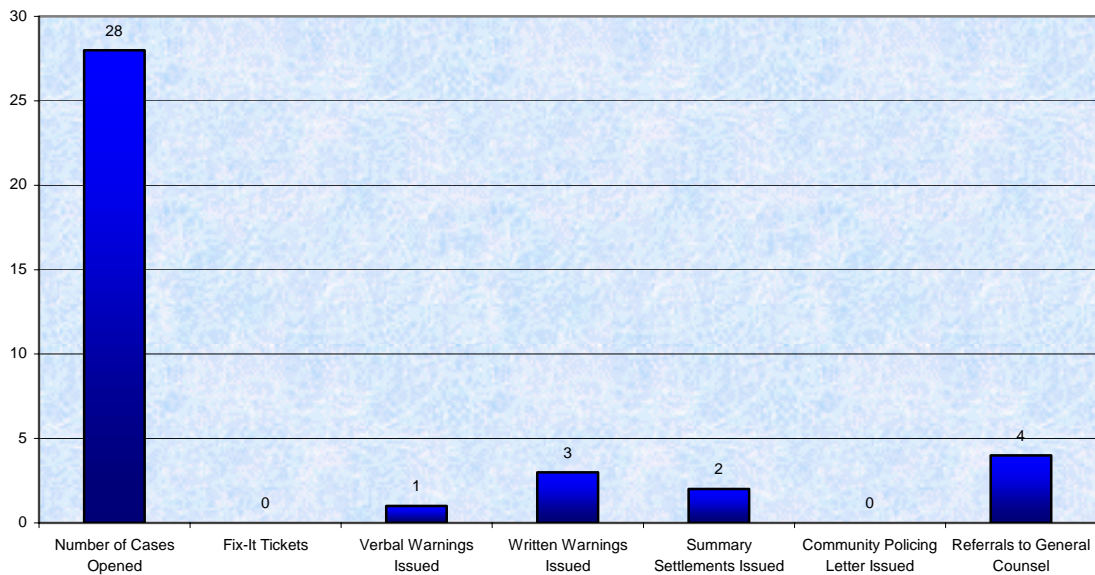
**Alaska Region Case Actions for Observer Cases
January 01, 2003 - December 31, 2003**



**Enforcement Effort for Steller Sea Lions
January 01, 2003 - December 31, 2003**



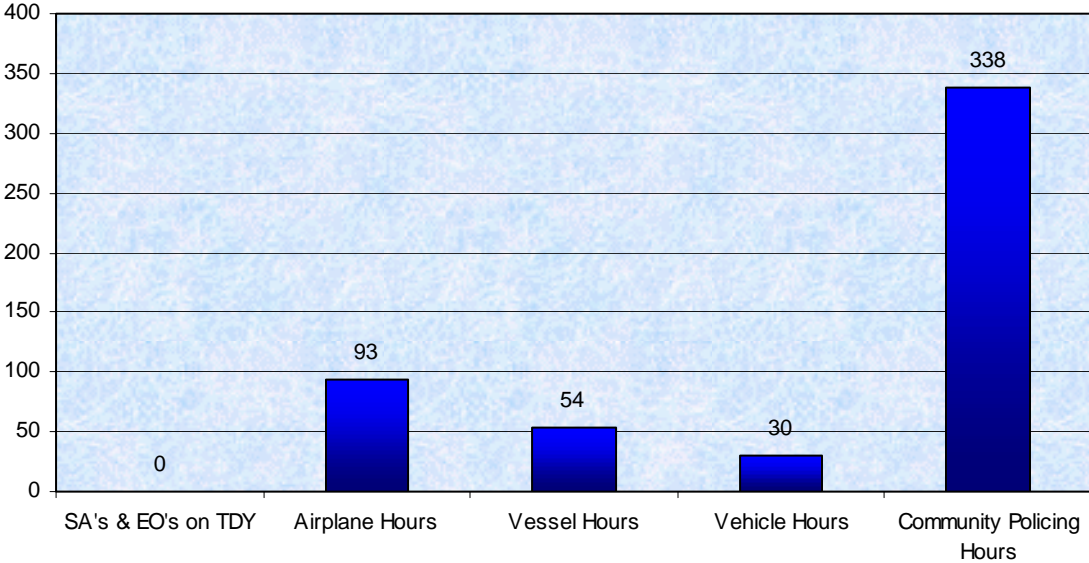
**Alaska Region Case Actions for Steller Sea Lion Cases
January 01, 2003 - December 31, 2003**



The above cases reflect the following violation descriptions:

- Unlawful take/harassment of Steller Sea Lion(s)
- Unlawful feeding of Steller Sea Lion(s)
- Incursion within 3 NM Steller Sea Lion Rookery

**Enforcement Effort for Beluga Patrols
January 01, 2003 - December 31, 2003**



Alaska Region Enforcement Patrol and Inspections

January 01, 2003 - December 31, 2003

	Total	Cordova	Dutch Harbor	Homer	Hoonah	Kenai	Ketchikan	Kodiak	Ninilchick	Petersburg	Seldovia	Seward	Sitka	Whittier	Yakutat
Boardings and Inspections															
No. of Vessel Boardings By Port	412	8	35	93	1	1	14	98	4	26	1	82	38	11	0
No. of Boardings with Violations	110	1	9	26	0	0	7	12	1	4	0	39	7	4	0
Compliance Rate (excluding state violations)	79%	88%	74%	72%	100%	100%	50%	88%	75%	85%	100%	52%	82%	64%	0%

No. of Plant Inspections By Port	58	9	1		1			43		1			1		2
No. Inspections with Violations	5	0	0		1			0		1			1		2
Compliance Rate	15%	100%		1%	0%			100%		0%			0%		0%

Alaska Region Enforcement Effort with Patrol Vessels

January 01, 2003 - December 31, 2003

Vessel Patrols

No. of Vessel Trips Taken	51
No. of Hours on the Water	320
No. of Boardings/Inspections	73

No. of Unmanned Port Visits	7
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No. of Violations Detected on Patrol	4
Compliance Rate	95%